

Practice Issues
Relating to Funeral Directing and Embalming

Control of Remains. The right to control the disposition of the remains of a deceased person, subject to section 23-1824 and unless other directions have been given by the decedent, vests in the following persons in the order named: (1) The surviving spouse; (2) if the surviving spouse is incompetent or not available, or if there be no surviving spouse, adult child of the decedent; (3) a surviving parent of the decedent; (4) an adult brother or sister of the decedent; (5) an adult person in the next degrees of kindred in the order named by the laws of Nebraska as entitled to succeed to the estate of the decedent; (6) the State Anatomical Board; or (7) the county board of the county in which death occurred.

The liability for the reasonable cost of interment devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent and, in cases when the county board has the right to control disposition of the remains under subdivision (7) of this section, upon the county in which death occurred from funds available for such purpose.

A decedent, prior to his or her death, may direct the preparation for type or place of interment of his or her remains, either by oral or written instructions. If such instructions are in a will or other written instrument, he or she may direct that the whole or any part of such remains be given to a teaching institution, university, college, or legally licensed hospital, to the Director of Regulation and Licensure, or to or for the use of any nonprofit blood bank, artery bank, eye bank, or other therapeutic service operated by any agency approved by the Director of Regulation and Licensure under rules and regulations established by the director. The person or persons otherwise entitled to control the disposition of the remains under this section shall faithfully carry out the directions of the decedent.

If such instructions are contained in a will or other written instrument, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

A funeral director and embalmer, physician, or cemetery authority shall not be liable to any person or persons for carrying out such instructions of the decedent, and any teaching institution, university, college, or legally licensed hospital or the Director of Regulation and Licensure shall not be liable to any person or persons for accepting the remains of any deceased person under a will or other written instrument as above set forth.

Price List. A written statement, signed by the funeral director and embalmer or legal representative, of all principal services and furnishings to be supplied by the funeral director and embalmer for the preparation and burial or cremation of the deceased, together with the actual cost of the services including the total actual costs, shall be given to the next of kin or other person responsible for the making of the funeral arrangements prior to the burial or disposition of the deceased. For purposes of this section principal services shall include, but not be limited to, the casket, outer receptacle, facilities and equipment, professional services, nonlocal

transportation, clothing, an itemization of all cash advances, and sales tax. A copy of such statement, signed by the person to whom it was tendered, shall be retained in the records of the funeral director and embalmer for a period of at least two years.

Auxillary Personnel. Except in those instances in which such removals are performed by public authorities in emergency situations, first calls or removals of dead human bodies shall be conducted only by persons licensed as embalmers or funeral directors in the State of Nebraska or pursuant to the direction of a licensed embalmer or funeral director. When a licensed embalmer or funeral director directs another other than himself to make such a first call or removal of a dead human body, he accepts, in every manner, full responsibility for all aspects of such a first call or removal.

A licensed funeral director shall be in charge of each funeral service, in person, whenever a dead human body is present. No person who is not licensed as an embalmer, or serving as a student embalmer, shall embalm dead human bodies for burial or cremation. Persons who are not licensed as either embalmers or funeral directors may assist in implementing arrangements made by a licensed funeral director as long as they are under his direct supervision and responsibility and may, at the direction of a licensed embalmer or funeral director, make first calls or removals of dead human bodies

Transporting Bodies.

Interstate Transportation. In case a body is to be transported out of the state the person or persons in charge of the body shall determine the regulations governing the transportation of bodies in the other state, or states, and shall comply fully with the requirements of such regulations, in addition to the requirements provided by these regulations. They shall further comply with all requirements of the common carrier and of the Interstate Commerce Commission.

Intrastate Transportation of Bodies Dead of a Cause Other Than a Communicable Disease.

Unembalmed Bodies. Dead human bodies which have not been embalmed shall not be transported by common carrier. Transportation may be made by privately owned conveyance under the direct supervision and responsibility of a licensed Funeral Director.

The body must reach the destination within twenty-four (24) hours following death, provided, however, that an unembalmed body may be retained in storage at a constant temperature of less than 40 degrees Fahrenheit for not more than seventy-two (72) hours. When such a body is removed from storage and transported it must reach the destination within twenty-four (24) hours following the removal from storage.

Exception. In the event the body is placed in a metal or metal lined hermetically sealed container immediately after death it may be considered for the purpose of transporting the same as an embalmed body.

Embalmed Bodies. There shall be no additional restrictions to the transportation of embalmed bodies other than those contained in the existing Nebraska statutes, provided the body is embalmed by arterial and cavity injection with not less than 10% of the body weight of a disinfectant embalming fluid containing not less than 5% formaldehyde gas. All body orifices shall be effectively plugged with absorbent cotton, and the body thoroughly bathed with a solution of 1/1000 bichloride of mercury, or other disinfectant of equal strength.

Exception. In the event the remains are to be sent to the State Anatomical Board, cavity work should be avoided when possible.

Bodies Dead of Communicable Diseases. Bodies dead of communicable diseases shall be thoroughly and promptly embalmed as previously outlined and shall be held in isolation from the public for a period of twenty-four (24) hours following the embalming.

All bodies dead of any of the foregoing special list of communicable diseases and which are not promptly and completely embalmed shall be encased immediately after death in a metal or metal lined and hermetically sealed container, and under no condition shall the body be removed from the container.

Nothing in the foregoing shall be construed as prohibiting a public funeral, nor shall persons who are quarantined as contacts be relieved from quarantine requirements.

Final Disposal of Dead Human Bodies. In all instances final disposition of dead human bodies shall be made within thirty (30) days after death, unless special permission in writing granting otherwise shall have been obtained from the Director of Health.